

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, CRIMINAL JURISDICTION

CRIMINAL APPLICATION NO. 6990 OF 2005
(Bail Application)

Vinod Maniklal Shah. .. Applicant
(Orig. Accused)

Versus

The State of Maharashtra. .. Respondent
(Orig. Complainant)

Shri. P. D. Desai with Shri. A. V. Bedekar,
Advocates, for the Applicant - Original Accused.

Shri. S. S. Tatkare, A. P. P., for the Respondent-
State.

CORAM : S. C. DHARMADHIKARI, J.
DATE : NOVEMBER 16, 2005

P. C.

. The applicant-accused is 71 years of age and is presently lodged at the Arthur Road Central Prison, Mumbai in C. R. No. 46 of 2005 registered with the Economic Offences Wing-V of the Police under sections 409, 420, 465, 467, 471 read with section 34 of the Indian Penal Code. He was arrested on 6.7.2005. The previous application was rejected by the learned Additional Chief Metropolitan Magistrate on 17.7.2005. Thereafter Criminal Application No. 4785 of 2005 was filed in this Court, but it was withdrawn with liberty

to approach the Sessions Court.

2. The Sessions Court having rejected Bail Application No. 1713 of 2005, the instant application is preferred.

3. The contention of learned Counsel appearing for the applicant is that accused Nos. 1 and 2 are the sons of the applicant, who is accused No.3. They are all directors in one "M/s. MCI Securities Pvt. Ltd., Mumbai. The applicant is the executive director of the company. It is contended that in connection with the subject transaction, accused No. 2 has been enlarged on bail. It is further contended that the applicant was arrested only because entry of one Manish Ajmera of Ajmera Pvt. Ltd. appeared in the record. In connection with this transaction, the applicant signed instruction-slip for sale of the shares of the investors. The said account was not disclosed. From April 2005 to July 2005, there is only one entry which is entered in the demat account. There is no other entry in this account. The applicant is not at all concerned with the other transactions in shares although he is associated with the company as an executive director. Learned Counsel for the applicant submits that on parity when accused No. 2 is released

on bail, the present applicant also should have been released, more particularly considering the fact that he is a senior citizen and of an advanced age. It is contended that the applicant has a permanent place of residence in Mumbai. He has no antecedents. Further, he is willing to co-operate at the trial.

4. Shri. Tatkare, the learned A.P.P., submits that this is a transaction where investors are duped to the extent of Rs. 50,00,00,000/=. Admittedly, the shares were not delivered. The representation made by the accused to the investors is clear. Acting upon the same, huge amounts have been parted, with and once the shares are not delivered, *prima facie*, the allegations stand proved. They are so corroborated by all the documents. Considering the magnitude of the offence, this is a fit case where the application should be rejected.

5. I have perused this application and the annexures thereto with learned Counsel appearing for both sides. It is clear that the chargesheet has been filed. It is further clear that the son of the present applicant, namely, original accused No.2, has been enlarged on bail. Further, by virtue of the order passed under section 102 of the Code of Criminal Procedure, 1973,

all accounts have been freezed. Thus, there is attachment and documents have been seized. Considering the fact that the shares are of the listed company and records are available at the Stock Exchange, there is no question of any further interrogation. Accused No.2 having been enlarged on bail and the applicant is an executive director and a senior citizen ought to be treated similarly. The fact that the applicant has no antecedents, that he has a permanent place of residence and business in Mumbai is also not disputed.

6. In the above circumstances, the application succeeds.

i) The applicant is enlarged on bail on furnishing security in the sum of Rs. 1,00,000/= with one or more sureties in the like amount.

ii) The applicant shall surrender his passport to the appropriate Court before being released.

iii) The applicant shall abide by all the conditions as are imposed by the trial Court on accused No. 2.

iv) The bail is granted subject to the condition that the applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(v) The applicant shall cooperate with the learned trial Judge for expeditious disposal of the trial.

vi) Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vii) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

viii) The application is disposed of in the above terms.

ix) The parties to act upon an authenticated copy of this order.

(S. C. Dharamadhikari, J.)